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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,251	12/02/2003	Ludwig Eberler	P03,0469	3538

7590 02/21/2007
SCHIFF HARDIN & WAITE
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6600 Sears Tower
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EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	02/21/2007	PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/726,251
Filing Date: December 02, 2003
Appellant(s): EBERLER ET AL.

Steven H. Noll
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 25 September 2006 appealing from the Office action mailed 11 January 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,727,328	CARPER et al.	02-1988
2002/0104163	REIMANN	08-2002
2002/0129446	HEINOLD et al.	09-2002

(9) Grounds of Rejection

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The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1 through 5, 7, 8, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinold et al. (U.S. Patent Publication No. 2002/0129446 A1) in view of Reimann (U.S. Patent Publication No. 2002/0104163 A1) and Carper et al. (U.S. Patent No. 4,727,328).

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Heinold et al. '446, as seen in Figures 1 and 3, show a device to install and remove a structural component (5) of a medical installation (15), said medical installation having a patient supporting apparatus (10) separate from said structural component, said device comprising: with regard to claim 1,

a two-part guide system attachable to said patient supporting apparatus and to said structural component;

a first of the two parts of said guide system comprising a first guide rail (7; [0022]) and a second of said two parts of said guide system comprising a guide groove (formed by the flange of element 5 as seen in Figure 3), said patient supporting apparatus being adapted to receive said guide rail thereon; and

said guide system, upon temporary, detachable placement of said structural component on said guide system on said patient supporting apparatus, guiding said structural component by sliding along said guide rail relative to said medical installation;

with regard to claim 2,

wherein said guide groove is in said structural component;

with regard to claim 3,

wherein said structural component has a bearing support (the longitudinal flanges as seen in Figure 3) attached thereto, and wherein said guide groove is in said bearing support; and

with regard to claim 8,

wherein said medical device is a magnetic resonance tomography device ([0003]).

Heinold et al. '446 fail to teach:

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with regard to claim 1,

the patient supporting apparatus being height adjustable; and

the guide system comprising a second guide rail mounted on the medical installation that, with appropriate positioning of the patient supporting apparatus, forms a linear aligned extension of the first guide rail;

with regard to claim 4,

the bearing support comprising plastic;

with regard to claim 5,

the guide system comprising an attachment element for attaching the guide rail to the patient supporting apparatus;

with regard to claim 7,

the second guide rail comprising plastic; and

with regard to claim 9,

the structural component being a radio-frequency body antenna of the magnetic resonance tomography device.

Reimann '163, as seen in Figure 1, shows a support device for a medical installation comprising a height adjustable patient supporting apparatus (15 via element 13; [0028]).

Carper et al. '328, as seen in Figure 1, show a medical installation (i.e., a Nuclear Magnetic Resonance imaging device) comprising a plastic guide rail (16 and 18; col. 3, lines 7 through 9) that, with appropriate positioning of a patient table base (50), forms an extension for receiving a structural component (60) thereon (col. 3, lines 17 through 20), and further

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comprising a structural component (200) including a radio-frequency body antenna in the form of a coil (250, 260).

With regard to claim 1, it would have been obvious to one having ordinary skill in the art of medical devices at the time the invention was made to modify the device shown by Heinold et al. '446 such that the supporting apparatus would height adjustable as taught by Reimann '163. The motivation would have been for ease of use by medical personnel of various heights as well as patients having various body sizes.

With regard to claims 1 and 7, it would have been obvious to one having ordinary skill in the art of magnetic resonance imaging at the time the invention was made to further modify the device disclosed by Heinold et al. '446 such that the medical installation would include a plastic second guide rail as taught by Carper et al. '328. The motivation would have been to provide support to the structural component while in the medical installation.

With regard to claim 4, while Heinold et al. '446 are silent with respect to the material of which the bearing support is comprised, it would have been obvious to one having ordinary skill in the art of magnetic resonance imaging at the time invention was made to make the bearing support of plastic since the Examiner takes Official Notice of use of the same for effecting low friction, non-metallic structures conducive to spectrometry applications.

With regard to claim 5, while Heinold et al. '446, Reimann '163 and Carper et al. '328 fail to teach an attachment element, it would have been obvious to one having ordinary skill in the art of medical devices at the time the invention was made to modify the device taught by the

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combination such that it would include an attachment element. The motivation would have been to secure the rails to the supporting apparatus and stabilize them against displacement.

With regard to claim 9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device shown by the device of Heinold et al. '446 such that the structural component would comprise radio frequency antenna coils as taught by Carper et al. '328. The motivation would have been to provide the device with means for broadcasting and/or receiving radio frequency signals.

With regard to claim 12, the method steps recited therein are inherent to the installation or removal of the device taught by the combination of Heinold et al. '446, Reimann '163 and Carper et al. '328.

Heinold et al. '446, as seen in Figures 1 and 3, shows a magnetic resonance tomography device comprising:

with regard to claim 13,

a magnetic resonance scanner (15)

a patient supporting apparatus (10) adapted to receive a patient thereon to move said patient into and out of said magnetic resonance scanner; and

a device for installing and removing a structural component relative to said magnetic resonance scanner, said device comprising a two-part guide system having a first part (7) attached to said patient supporting apparatus and a second part (the flanges of element 5) attached to said structural component, said first part comprising a guide rail and said second part comprising a guide groove temporarily detachably engageable with said guide rail allowing said

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structural component, when placed on said patient supporting apparatus, to be slid along said guide rail relative to said magnetic resonance scanner.

Heinold et al. '446 fail to teach:

with regard to claim 13,

a height adjustable patient supporting apparatus; and

the structural component being a radio frequency body antenna.

Reimann '163, as seen in Figure 1, shows a support device for a medical installation comprising a height adjustable patient supporting apparatus (15 via element 13; [0028]).

Carper et al. '328, as seen in Figure 1, show a medical installation (i.e., a Nuclear Magnetic Resonance imaging device) comprising a structural component (200) including a radio-frequency body antenna in the form of a coil (250, 260).

With regard to claim 13, it would have been obvious to one having ordinary skill in the art of medical devices at the time the invention was made to modify the device shown by Heinold et al. '446 such that the supporting apparatus would height adjustable as taught by Reimann '163. The motivation would have been for ease of use by medical personnel of various heights as well as patients having various body sizes.

With regard to claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device shown by Heinold et al. '446 such that the structural component would comprise radio frequency antenna coils as taught by Carper

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et al. '328. The motivation would have been to provide the device with means for broadcasting and/or receiving radio frequency signals.

(10) Response to Argument

In response to Appellant's arguments that the combination of Heinold et al. '446, Reimann '163 and Carper et al. '328 fails to teach a structural component (5) separate from the patient supporting apparatus (10), the Examiner contends Heinold et al. '446 teaches the structural component as being separate from the patient supporting apparatus in paragraph 0022. Specifically, the Examiner contends that the connection of the structural component and the patient supporting apparatus does not preclude them being separate or individual members.

In response to Appellant's statement that the combination of Heinold et al. '446, Reimann '163 and Carper et al. '328 fails to teach a second guide rail forming a linear, aligned extension as required by claim 1, the Examiner contends the rails taught by Carper et al. '328 meets the limitation as claimed. Specifically, the rails (16 and 18) are linear and aligned with one another. Furthermore, they would be considered aligned with the first guide rail shown by Heinold et al. '446 since all of the rails would be extending in the same longitudinal direction of the apparatus. Specifically, the word *alignment* does not require the first and second rails to form a line but rather properly positioned in relation to each other.

In response to Appellant's statement regarding the change in terminology during prosecution such that the language of the claims on appeal would correspond to that of the prior art reference to Hein old et al. '446, the Examiner contends such a change absent additional structural or functional limitations matters not to the interpretation of the claims on appeal or the rejection of the claims as being unpatentable over the prior art.

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(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


TARA L MAYO
PATENT EXAMINER

Conferees:

Thomas Will 

Meredith Petravick 